

AMENDED IN ASSEMBLY MAY 29, 2003

AMENDED IN SENATE MARCH 24, 2003

**SENATE BILL**

**No. 303**

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**Introduced by Senator Torlakson**

February 19, 2003

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*An act to amend Section 17075.15 of the Education Code, and to amend Sections 53321 and 53345.8 of, and to add Section 53313.51 to the Government Code, relating to, ~~community facilities districts. local agency facilities.~~*

LEGISLATIVE COUNSEL'S DIGEST

SB 303, as amended, Torlakson. ~~Community~~—*Local agency facilities districts.*

*(1) Existing law requires the State Allocation Board to adopt regulations for determining the amount of funding and the eligibility and prioritization of funding that school districts with a financial hardship may receive from bond acts for construction, modernization, or relocation assistance. The regulations are required to consider various factors, including whether the school district has current outstanding bonded indebtedness, on which it is paying debt service, of at least 60% of its total bonding capacity.*

*This bill would revise that factor to specify the purpose of that outstanding indebtedness.*

~~Existing~~

*(2) Existing law provides for the establishment of community facilities districts as a means of financing the construction, purchase, or improvement of certain public facilities, including school facilities, and certain public services. Existing law requires the adoption of a*

*resolution of intention to establish the district that specifies, among other things, conditions on the imposition of a special tax to pay for public facilities, including specifying the last tax year in which the special tax may be levied or collected.*

*This bill would authorize the legislative body of the district to enter into an agreement for the construction of authorized facilities and for the purchase of the facilities, subject to specified conditions. This bill would provide that a special tax that was lawfully levied in or before the final tax year and remains delinquent may be collected in subsequent years.*

*(3) Existing law requires that the legislative body of a community facilities district, in order to sell bonds, determine that the value of the real property that would be subject to the special tax to pay debt service on the bonds will be at least 3 times the principal amount of the bonds to be sold and other outstanding bonds secured by a special tax or assessment, with specified exceptions.*

*This bill would specify the method for estimating the principal amount of the other outstanding bonds and would provide an additional exception to requiring that determination.*

*Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.*

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 17075.15 of the Education Code is*  
2 *amended to read:*

3 17075.15. (a) From funds available from any bond act for the  
4 purpose of funding facilities for school districts with a financial  
5 hardship, the board may provide other construction,  
6 modernization, or relocation assistance as set forth in this chapter  
7 or Chapter 14 (commencing with Section 17085) to the extent that  
8 severe circumstances may require, and may adjust or defer the  
9 local financial participation, as pupil health and safety  
10 considerations require to the extent that bond act funds are  
11 provided for this purpose.

12 (b) The board shall adopt regulations for determining the  
13 amount of funding that may be provided to a district, and the  
14 eligibility and prioritization of funding, under this article.



(c) The regulations shall define the amount, and sources, of financing that the school district could reasonably provide for school facilities as follows:

(1) Unencumbered funds available in all facility accounts in the school district including, but not limited to, fees on development, redevelopment funds, sale proceeds from surplus property, funds generated by certificates of participation for facility purposes, bond funds, federal grants, and other funds available for school facilities, as the board may determine.

(2) The board may exclude from consideration all funds encumbered for a specific capital outlay purpose, a reasonable amount for interim housing, and other funds that the board may find are not reasonably available for the project.

(d) Further, the regulations shall also specify a method for determining required levels of local effort to obtain matching funds. The regulations shall include consideration of at least all of the following factors:

(1) Whether the school district has passed a bond measure within the two-year period immediately preceding the application for funding under this article, the proceeds of which are substantially available for use in the project to be funded under this chapter, but remains unable to provide the necessary matching share requirement.

(2) Whether the ~~school district has a~~ *principal amount of the current outstanding bonded indebtedness issued for the purpose of constructing school facilities for the school district and secured by property within the school district or by revenues of, or available to, the school district*, which shall include general obligation bonds, Mello-Roos bonds, school facility improvement district bonds, certificates of participation, and other debt instruments ~~upon which the school district is paying a debt service, or issued for the purpose of constructing school facilities for the school district and for which owners of property within the school district or the school district are paying debt service~~ is at least 60 percent of the school district's total bonding capacity, as determined by the board.

(3) Whether the total bonding capacity, as defined in Section 15102 or 15106, as applicable, is five million dollars (\$5,000,000) or less, in which case, the school district shall be deemed eligible for financial hardship.

(4) Whether the application for funding under this article is from a county superintendent of schools.

(5) Whether the school district submits other evidence of substantial local effort acceptable to the board.

(6) The value of any unused local general obligation debt capacity, and developer fees added to the needs analysis to reflect the district's financial hardship, available for the purposes of school facilities financing.

SEC. 2. Section 53313.51 is added to the Government Code, to read:

53313.51. The legislative body may enter into an agreement for the construction of authorized facilities and their purchase consistent with Section 53313.5. The agreement may include any provisions that the legislative body determines are necessary or convenient, but shall do all of the following:

(a) Identify the specific facilities or discrete portions or phases of facilities to be constructed and purchased. The legislative body may agree to purchase discrete portions or phases of facilities if the portions or phases are capable of serviceable use as determined by the legislative body.

(b) Notwithstanding subdivision (a), when the purchase value of a facility exceeds one million dollars (\$1,000,000), the legislative body may agree to purchase discrete portions or phases of the partially completed project.

(c) Identify procedures to ensure that the facilities are constructed pursuant to plans, standards, specifications, and other requirements as determined by the legislative body.

(d) Specify a price or a method to determine a price for each facility or discrete portion or phase of a facility. The price may include an amount reflecting the interim cost of financing cash payments that must be made during construction of the project, at the discretion of the legislative body.

(e) Specify procedures for final inspection and approval of facilities or discrete portions of facilities, for approval of payment, and for acceptance and conveyance or dedication of the facilities to the local agency.

~~SEC. 2.—~~

SEC. 3. Section 53321 of the Government Code is amended to read:

1 53321. Proceedings for the establishment of a community  
2 facilities district shall be instituted by the adoption of a resolution  
3 of intention to establish the district which shall do all of the  
4 following:

5 (a) State that a community facilities district is proposed to be  
6 established under the terms of this chapter and describe the  
7 boundaries of the territory proposed for inclusion in the district,  
8 which may be accomplished by reference to a map on file in the  
9 office of the clerk, showing the proposed community facilities  
10 district. The boundaries of the territory proposed for inclusion in  
11 the district shall include the entirety of any parcel subject to  
12 taxation by the proposed district.

13 (b) State the name proposed for the district in substantially the  
14 following form: "Community Facilities District No. \_\_\_\_."

15 (c) Describe the public facilities and services proposed to be  
16 financed by the district pursuant to this chapter. The description  
17 may be general and may include alternatives and options, but it  
18 shall be sufficiently informative to allow a taxpayer within the  
19 district to understand what the funds of the district may be used to  
20 finance. If the purchase of completed public facilities or the  
21 incurring of incidental expenses is proposed, the resolution shall  
22 identify those facilities or expenses. If facilities are proposed to be  
23 financed through any financing plan, including, but not limited to,  
24 any lease, lease-purchase, or installment-purchase arrangement,  
25 the resolution shall briefly describe the proposed arrangement.

26 (d) State that, except where funds are otherwise available, a  
27 special tax sufficient to pay for all facilities and services, secured  
28 by recordation of a continuing lien against all nonexempt real  
29 property in the district, will be annually levied within the area. The  
30 resolution shall specify the rate, method of apportionment, and  
31 manner of collection of the special tax in sufficient detail to allow  
32 each landowner or resident within the proposed district to estimate  
33 the maximum amount that he or she will have to pay. The  
34 legislative body may specify conditions under which the  
35 obligation to pay the specified special tax may be prepaid and  
36 permanently satisfied. The legislative body may specify  
37 conditions under which the rate of the special tax may be  
38 permanently reduced in compliance with the provisions of Section  
39 53313.9.

1 In the case of any special tax to pay for public facilities and to  
2 be levied against any parcel used for private residential purposes,  
3 (1) the maximum special tax shall be specified as a dollar amount  
4 which shall be calculated and thereby established not later than the  
5 date on which the parcel is first subject to the tax because of its use  
6 for private residential purposes, which amount shall not be  
7 increased over time except that it may be increased by an amount  
8 not to exceed 2 percent per year, (2) the resolution shall specify a  
9 tax year after which no further special tax subject to this sentence  
10 shall be levied or collected, *except that a special tax that was*  
11 *lawfully levied in or before the final tax year and that remains*  
12 *delinquent may be collected in subsequent years*, and (3) the  
13 resolution shall specify that under no circumstances will the  
14 special tax levied against any parcel subject to this sentence be  
15 increased as a consequence of delinquency or default by the owner  
16 of any other parcel or parcels within the district by more than 10  
17 percent. For purposes of this paragraph, a parcel shall be  
18 considered “used for private residential purposes” not later than  
19 the date on which an occupancy permit for private residential use  
20 is issued. Nothing in this paragraph is intended to prohibit the  
21 legislative body from establishing different tax rates for different  
22 categories of residential property, or from changing the dollar  
23 amount of the special tax for the parcel if the size of the residence  
24 is increased or if the size or use of the parcel is changed.

25 (e) Fix a time and place for a public hearing on the  
26 establishment of the district which shall be not less than 30 or more  
27 than 60 days after the adoption of the resolution.

28 (f) Describe any adjustment in property taxation to pay prior  
29 indebtedness pursuant to Sections 53313.6 and 53313.7.

30 (g) Describe the proposed voting procedure.

31 The changes made to this section by Senate Bill No. 1464 of the  
32 1991–92 Regular Session of the Legislature shall not apply to  
33 special taxes levied by districts for which a resolution of formation  
34 was adopted before January 1, 1993.

35 *SEC. 4. Section 53345.8 of the Government Code is amended*  
36 *to read:*

37 53345.8. (a) The legislative body may sell bonds pursuant to  
38 this chapter only if it determines prior to the award of sale of bonds  
39 that the value of the real property that would be subject to the

special tax to pay debt service on the bonds will be at least three times the principal amount of the *sum of the following*:

(1) *The principal amount of the bonds to be sold and the*.

(2) *The principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to this chapter on property within the community facilities district or a special assessment levied on property within the community facilities district. The legislative body shall estimate the principal amount of these other bonds that are secured by property within the district by assuming that the maximum allowable tax or assessment applicable to each parcel of property within the district will be levied until the date of maximum maturity of the bonds. Any determination made pursuant to this subdivision shall be based upon the full cash value as shown on the ad valorem assessment roll or upon an appraisal of the subject property made in a manner consistent with the policies adopted pursuant to paragraph (5) of subdivision (a) of Section 53312.7 by a state certified real estate appraiser, as defined in subdivision (c) of Section 11340 of the Business and Professions Code. The Treasurer may recommend definitions, standards, and assumptions to be used for these appraisals. These definitions, standards, and assumptions are advisory only, and the definitions, standards, and assumptions to be applied to appraisals will be those adopted by the local agency pursuant to paragraph (5) of subdivision (a) of Section 53312.7.*

(b) Notwithstanding the provisions of subdivision (a), if the legislative body selling the bonds finds and determines that the proposed bonds do not present any unusual credit risk due to the availability of credit enhancements, *or because a sufficient portion of the principal amount of a bond issue has been deposited in a self-financing and self-liquidating escrow account under conditions such that it cannot be withdrawn until the value of real property subject to special taxes has increased sufficiently so that the requirements of subdivision (a) will be met* or for other reasons specified by the legislative body, the provisions of subdivision (a) may be disregarded.

(c) Notwithstanding the provisions of subdivision (a), if the legislative body selling the bonds finds and determines by a vote of not less than four-fifths of all of its members that the proposed bond issue should proceed for specified public policy reasons, the provisions of subdivision (a) may be disregarded.



1 A finding and determination by the legislative body pursuant to  
2 this subdivision shall be final and conclusive upon all persons in  
3 the absence of actual fraud, and neither the legislative body nor the  
4 district shall have any liability of any kind whatsoever out of, or  
5 in connection with, any finding and determination.

6 *SEC. 5.* In enacting this act, the Legislature finds and declares  
7 the following:

8 (a) The Mello-Roos Community Facilities Act (Chapter 2.5  
9 (commencing with Section 53311) of Division 2 of Title 5 of the  
10 Government Code) authorizes local agencies to acquire facilities  
11 and implicitly authorizes them to acquire portions or phases of  
12 those facilities.

13 (b) Under that act, local agencies use many ways to acquire  
14 facilities and to recognize the portions or phases of those facilities.

15 (c) The failure to authorize and make payments for the portions  
16 or phases of those facilities may increase the cost of constructing  
17 housing, the facilities that are needed to serve housing, nonhousing  
18 developments, and other job-creating projects. As a result, the cost  
19 of housing and other development may become more expensive.

20 (d) Section 53313.5 of the Government Code protects the  
21 public interest by requiring that any work in-kind accepted  
22 pursuant to that section shall be performed or constructed as if the  
23 work had been performed or constructed under the direction and  
24 supervision, or under the authority, of the local agency.

25 (e) When local agencies comply with the requirements of  
26 Section 53313.5 of the Government Code, there are valid reasons  
27 to encourage those local agencies to make purchase payments for  
28 discrete portions or phases of facilities.

